

**IN THE MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

---

**COMPLETE TITLE OF CASE**

IN THE ESTATE OF WILLIAM B. VAN NOTE, Deceased

THE BAR PLAN SURETY AND FIDELITY COMPANY,

Respondent,

v.

SUSAN E. VAN NOTE,

Appellant.

---

**DOCKET NUMBER WD77102**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** September 23, 2014

---

**APPEAL FROM**

The Circuit Court of Clay County, Missouri

The Honorable Larry D. Harman, Judge

---

**JUDGES**

Division I: Pfeiffer, P.J., and Welsh and Mitchell, JJ.

CONCURRING.

---

**ATTORNEYS**

Michael P. Dreiling, Jr.  
Olathe, KS

Attorney for Respondent,

John A. Christiansen  
Kansas City, MO

Attorney for Appellant.

---



## MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

IN THE ESTATE OF WILLIAM B. VAN	)	
NOTE, Deceased	)	
	)	
THE BAR PLAN SURETY AND	)	
FIDELITY COMPANY,	)	
	)	OPINION FILED:
	)	September 23, 2014
Respondent,	)	
v.	)	
	)	
SUSAN E. VAN NOTE,	)	
	)	
Appellant.	)	

WD77102

Clay County

**Before Division I Judges:** Mark D. Pfeiffer, Presiding Judge, and James Edward Welsh and Karen King Mitchell, Judges

Susan Van Note appeals the order of the Circuit Court of Clay County, Missouri, Probate Division, in connection with a judgment of civil contempt, committing her to the Clay County Jail until she purges herself of the contempt by repaying to the estate of William Van Note \$272,603.01 that she admittedly owes the estate and that she improperly removed from the estate when she was its personal representative. On appeal, Van Note claims that the trial court's judgment was erroneous because the probate court did not make an express finding that Van Note had the present ability to repay the estate assets, nor was there substantial evidence of her present ability to repay the estate. Finally, Van Note claims that the probate court's order was entered without subject matter jurisdiction.

**AFFIRMED.**

**Division I holds:**

The probate court heard evidence that Van Note removed roughly \$620,000 cash from the estate, in addition to considerable real and personal property, some of which Van Note sold. In addition, the probate court apparently did not find credible Van Note's testimony that she no

longer possessed the cash that she removed from the estate. Because substantial evidence exists in the record to support the probate court's finding that Van Note had the present ability to return the estate assets to the estate, its order of commitment was not improper on this basis.

Van Note's jurisdictional argument was not properly preserved for appeal and is meritless in any event, as both the judgment of contempt and the commitment order were entered in the same general probate case, and hearings were held preceding the entry of both where all parties had a full opportunity to present evidence and argue their positions.

**Opinion by: Mark D. Pfeiffer, Judge**

September 23, 2014

\* \* \* \* \*

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.